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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
 )  
Implementation of the )  
Pay Telephone Reclassification )  
and Compensation Provisions of the )  
Telecommunications Act of 1996 )

DOCKET FILE COPY ORIGINAL

CC Docket No. 96-128

**U S WEST, INC. COMMENTS**

U S WEST, Inc. is a member of the RBOC Payphone Coalition ("Coalition")<sup>1</sup> that has filed comments in response to the Commission's Notice of Proposed Rulemaking in this proceeding. U S WEST submits these separate comments for the limited purpose of addressing how the Commission should ensure that each payphone service provider ("PSP") receives fair compensation for local coin calls and incoming calls. In these comments, U S WEST argues that the Commission (i) should not require every state that still regulates the rate for local coin calls to re-examine that rate using a prescribed methodology within 90 days (as proposed by the Coalition), and (ii) should require the states to permit PSPs to charge end-users for incoming calls in order to ensure that the PSP is fairly compensated for those calls.

<sup>1</sup> The other members of the Coalition are the Bell Atlantic Companies, BellSouth Corporation, NYNEX Corporation, Pacific Telesis Group and Southwestern Bell Company.

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I. The Commission Should Not Require Re-examination of Local Coin Call Rates in Those States Where the Rate is At or Above the Predominant Rate of 25 Cents  
[Notice ¶¶ 20-22]

In paragraphs 20-22 of the Notice, the Commission sets forth three options for ensuring that the payphone provider receives fair compensation for local coin calls:

(1) set a nationwide local coin rate, (2) prescribe specific national guidelines that states would use in establishing the local coin rate, and (3) defer to the states in setting the local coin rate. U S WEST believes for three compelling reasons that the best approach is to deregulate the local coin rate, and to allow PSPs to determine the rate based on local market conditions.

First, the payphone market is already competitively structured. In addition to the factors mentioned by the Coalition in its Comments (*e.g.* low barriers to entry, vigorous competition for new payphone locations, growth of independent PSPs), U S WEST notes that in several of the states where it has pricing flexibility with respect to the local coin rate, wireless services such as cellular effectively constrain that pricing. Depending on the duration of the call, time of day and the usage pattern of the caller, a local call from a cellular or mobile telephone may actually cost less than a local call from a payphone. Even where the call would cost more, people often choose the wireless device over the payphone because other factors such as convenience, security and comfort outweigh the additional expense. As wireless services become increasingly available and affordable through the offering of PCS and other new services, payphone pricing will be even more constrained than it is today

Second, RBOC payphone service will be effectively deregulated once the Commission implements the Section 276 mandates, namely: discontinue the carrier access charge payphone service elements and payments; eliminate all payphone subsidies from basic exchange and exchange access revenues; and prescribe a set of nonstructural safeguards at least equal to those adopted in Computer Inquiry-III. U S WEST firmly believes that a nonregulated business should have total pricing flexibility. RBOC PSPs will bear the burdens of deregulation (*e.g.* Part 64 accounting, network disclosure), and should be allowed to enjoy all of the benefits.

Third, state interest does not justify continued state regulation of local rates where, as here, the market is competitive. According to paragraph 22 of the Notice, the states have “a significant interest” in setting local call rates because payphones are used by “some” residents as a “substitute” for local telephone service. States also have an interest in ensuring the availability of affordable food, housing and other essential items. If the market determines that the price of a quart of milk is 75 cents, however, the states cannot dictate that the price is 50 cents. Similarly, if the median price of a single-family home rises from \$132,000 to \$137,000, states do not have the power to cap the market-driven increase. There is nothing so unique about payphone service that would justify continued regulation of local coin rates by the states. As explained above, normal market forces will effectively constrain those rates.

Some will argue that there is a need for continued regulation of local rates, at least for a transitional period. Should the Commission adopt this approach, U S WEST agrees with the RBOC Coalition that the second option (prescribe national guidelines) is the best

option. Setting a nationwide local coin rate would be far too regulatory and prescriptive in today's telecommunications environment where there is increasing reliance on private negotiations and market forces. Allowing states to continue to set local rates with no guidance from the Commission, however, would also be unacceptable because, as the Commission recognizes, some states do not fairly compensate PSPs for use of their payphones for local calls, and the Commission must ensure that they do. Therefore, U S WEST agrees with the Coalition that the Commission should prescribe national guidelines to ensure (i) full cost recovery (plus a reasonable profit), and (ii) setting of the local coin rate independent of other revenue sources.

U S WEST does not agree, however, that all states (except those in which the local call rate is already deregulated) must determine rates according to those guidelines within 90 days of the effective date of the regulations. This would be overly burdensome to the states at a time when interconnection, universal service and other important issues are already straining limited resources. It would also be overly burdensome to many industry players, who would be forced to participate in multiple payphone proceedings simultaneously.<sup>2</sup> That is simply not fair, nor is it necessary.

In U S WEST's view, the Commission can avoid imposing this undue burden and still implement effective guidelines by establishing a procedural benchmark based upon the predominant local rate -- 25 cents.<sup>3</sup> States where the local coin rate is at or above 25

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<sup>2</sup> Local rates are still fully regulated by tariff in eight out of the 14 states in U S WEST's region (Arizona, Colorado, Idaho, New Mexico, Minnesota, Oregon, Washington and Utah.). U S WEST has pricing flexibility with respect to local coin rates in Nebraska (1987), Montana (1990), South Dakota (1992), North Dakota (1993), Iowa (1995), Wyoming (1995) and Minnesota.

<sup>3</sup> The local rate is 25 cents in 10 states within U S WEST's region, and in at least 25 states nationwide.

cents should not be required to re-examine that rate according to the national standards within any prescribed period of time; only those states where the local rate is below 25 cents should be required to do so. In this way, the Commission can fairly achieve its goal of ensuring that PSPs are fairly compensated for local calls without imposing an undue burden on the states and on the industry.

II. The Commission Should Require States to Permit PSPs to Charge End-Users for Incoming Calls  
[Notice ¶16]

The Commission should state in its rules that PSPs are permitted to charge for incoming calls. Section 276 is not limited to calls “originated” on payphones, as paragraph 16 of the Notice suggests. Rather, it applies to “each and every completed intrastate and interstate call using [a PSP’s] payphone.”<sup>4</sup> Although RBOC PSPs have not fully developed or deployed the equipment needed to charge for incoming calls, U S WEST believes PSPs should be allowed to charge end-users for incoming calls at the same rate as the local coin rate as soon as it becomes technologically feasible to do so. Including such a rule in the Commission’s rules would obviate the need for Commission action at a later date.

III. Conclusion

With the few exceptions noted above, U S WEST agrees with and supports the Coalition’s comments. U S WEST’s benchmark proposal and its approach to incoming calls not only will ensure that PSPs are fairly compensated for local calls and incoming calls, but will obviate the need for unnecessary proceedings before the Commission and

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<sup>4</sup> 47 U.S.C. § 276(b)(1)(A).

state Public Utilities Commissions. At this critical time, when the Commission, the states and industry players are fully engaged in the immense task of reshaping the entire telecommunications industry in the image of the 1996 Act, U S WEST stresses the need for regulatory economy.

Respectfully submitted,

U S WEST, Inc.

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July 1, 1996

## **CERTIFICATE OF SERVICE**

I, Kelseau Powe, Jr., do hereby certify that on this 1st day of July, 1996, I have caused a copy of the foregoing **U S WEST, INC. COMMENTS** to be served via hand-delivery, upon the persons listed on the attached service list.



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